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Attn. Office of Petitions

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Re: Patent Application S.N. 09/936,531, filed September 11, 2001

This is a petition under 37 CFR 1.181(a) to withdraw holding of abandonment. No fee is required. The facts are as follows.

Responsive to the Office action dated October 14, 2004, a request for continued examination (RCE) was filed on February 14, 2005 in the above-identified application. A fee of \$900.00 was remitted with the request for RCE (\$790.00 for RCE and \$110.00 for one month extension of time). However, due to the new fee schedule a fee of \$120.00 should have been paid for one month extension of time. Thus the payment was in deficit of \$10.00 as advised through a phone call on March 10, 2005 from the USPTO. This deficit amount was promptly remitted via credit card payment on or about March 11, 2005 .

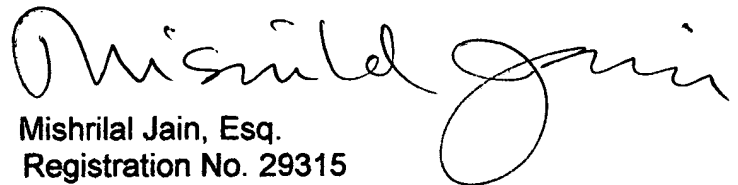
Then about three months later from the filing of RCE, a notice of improper RCE failing to file a submission accompanying the RCE was issued by the Office on May 10, 2005. **It may be noted at this point that this notice dated May 10, 2005 issued after the allowable extension of time period had already expired on April 14, 2005. And, until this time the undersigned was entirely unaware that there was anything else deficient or wrong with the filed RCE.**

Then upon receiving the notice, the undersigned spoke to Mr. Harold Smith of Group 1700 at telephone number 571-272-1051 given on the notice. Mr. Smith noted that since the extension of time fee was already paid with the filing of RCE, all that needed to be done was to send the missing submission and it should be fine. Thereupon as advised by Mr. Smith, the undersigned promptly mailed a submission which was received by the Office on or about May 24, 2005. But then through an Office communication dated June 13, 2005 a Notice of Abandonment issued, which noted that the RCE response submitted on February 14, 2005 did not constitute a proper reply to the final action and that the submission made on

May 24, 2005 was after the period for extension of time had expired on April 14, 2005. Obviously, this is inconsistent with and contrary to Mr. Smith's advice and sets aside the fact that the **Office did not act until May 10, 2005 and the applicant until then had no indication from the Office of any issue of any kind as to the RCE.**

Based on the facts noted above, it is clear that had the Office issued its communication prior to the expiration of the extension of the time period, i.e. prior to April 14, 2005, and the applicant then would have failed to respond as necessary, a holding of abandonment of the application would have been proper. However, the applicant timely and properly complied with every communication from the Office, and being aware that the time period for response ran from the mailing date of the final Office action paid the proper extension of time fees when the RCE was filed, and submitted the missing part (i.e., submission) as soon as informed of the same via Office communication of May 10, 2005; hence the applicant respectfully contends that the application is not in fact abandoned. Under these facts it is respectfully submitted that the abandonment of this application should be withdrawn.

Respectfully submitted,


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June 21, 2005